REMARKS

Claims 2, 3, 5-14 and 16-21 are pending in this application. Claims 5-14 and 19 have been withdrawn from consideration. By this Amendment, claims 2, 3, 5, 7, 8, 11, 12 and 16-19 are amended, claims 20 and 21 are added, and claims 1, 4 and 15 are canceled. New claim 20 is based on prior claim 1, and new claim 21 is based on prior claim 15. Claims 2, 3, 7, 11 and 12 are amended to be consistent with new claim 20, and claims 16-19 are amended to be consistent with new claim 21. Support for new claims 20 and 21 may be found in the original specification at, for example, original claims 1 and 15, page 1, lines 3-11, page 9, lines 19-25, page 13, lines 24-33 and Figures 2-7. No new matter is added. For example, the resilient weight supporting elements are described throughout the original specification, describing the arms and/or pads as being elastically deformable (resilient) and responsive to the weight of the wearer (weight supporting). The original specification and Figures also clearly illustrate the pivotal arrangement and angular elastic charging of the elements about an axis in the longitudinal direction (e.g., Figures 3 and 7).

Reconsideration of the application is respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1 and 15-18 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicants respectfully traverse this rejection.

As an initial matter, Applicants point out that claims 1 and 15 have been canceled in favor of claims 20 and 21.

In claims 20 and 21, the term "front" is clearly used in terms of what "front" is being referenced in each occurrence.

In claim 21, the term "the plane of the" is also clearly used and complete.

As such, reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph, are respectfully requested.

Rejections Under 35 U.S.C. §102(b)

Moua

Claims 1-3 and 15-18 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,393,731 ("Moua"). Applicants respectfully traverse the rejection.

Moua discloses that a ball of the wearer's foot can be protected using a shock absorber 100 of shoe 10. Shock absorber 100 includes a second multichamber housing 102 on a bottom section 14 of shoe 10 adjacent to toe section 26 of the shoe. A second shock absorber system 120 is located in the second multichamber housing 102 and includes a plurality of first springs 122 located in second chamber 118 of second multichamber housing 102. Each first spring 122 in second multichamber housing 102 is mounted on outsole wall 106 of second multichamber housing 102 and is oriented to receive compressive force when a wearer of the shoe places pressure on toe section 26 of the shoe. See Moua, column 7, lines 12-55 and Figure 1. That is, the elasticity of each spring in the front part of the shoe occurs in a direction perpendicular to the plane of the outsole wall 106, i.e., the sole of shoe 10.

In contrast, claims 20 and 21 require that each resilient weight supporting element be pivotally arranged around the longitudinal direction to be angularly elastically charged around the longitudinal direction (axis) against any local and lateral dynamic loading of a metatarsus, part of a foot on either side of the longitudinal direction. That is, contrary to the elasticity of each spring in the front part of the shoe occurring in a direction perpendicular to the plane of the sole of a shoe as described in Moua, the structure of claims 20 and 21 allows the elastic resilience to be articulated around the longitudinal axis of the shoe. As such, Moua fails to describe each and every feature of claims 20 and 21.

Thus, Moua fails to describe a footwear item including a dynamically responsive integral insert comprising two (or more) resilient weight supporting elements respectively

disposed on two sides of a longitudinal direction, the resilient weight supporting elements antagonistically acting around the longitudinal direction, each resilient weight supporting elements being pivotally arranged around the longitudinal direction to be angularly elastically charged around the longitudinal direction against any local and lateral dynamic loading of a metatarsus part of a foot on either side of the longitudinal direction, caused by a transverse transfer of weight of a footwear item bearer from one side to an other of the footwear item, as recited in new claims 20 and 21.

For at least the foregoing reasons, Moua does not anticipate any of the present claims. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) are respectfully requested.

Krafsur

Claims 1-3 and 15-18 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,282,814 ("Krafsur"). Applicants respectfully traverse the rejection.

Krafsur discloses that when a pair of spring cushioned shoes is placed in use by a user, for example a runner, the region of the shoe containing wave spring 15 strikes the running surface first. The strike force applied by the calcaneus portion of the foot compresses the wave spring to a prescribed height before the foot is brought to rest and the body mass is dynamically transferred to the metatarsal region of the foot in contact with the surface where the wave spring 19 becomes compressed. When the body mass is transferred to the metatarsal region of the foot, wave spring 15, which was in the initial foot strike, undergoes a compress recoil cycle. As the user lifts the metatarsal region of the foot, energy is transferred to this region as wave spring 19 recoils. Thus, wave springs 15 and 19 both provide cushioning and energy return to the user of the SCS 2. See Krafsur, column 8, lines 1-16 and Figure 1. That is, the elasticity of the wave spring 19 occurs in the vertical direction.

In contrast, and as discussed above, claims 20 and 21 require that each resilient weight supporting element be pivotally arranged around the longitudinal direction to be angularly elastically charged around the longitudinal direction against any local and lateral dynamic loading of a metatarsus part of a foot on either side of the longitudinal direction. That is, contrary to the elasticity of spring 19 in the front part of the shoe that is exerted in the vertical direction as described in Krafsur, the structure of claims 20 and 21 allows the elastic resilience to be articulated around the longitudinal axis of the shoe. As such, Krafsur fails to describe each and every feature of claims 20 and 21.

For at least the foregoing reasons, Krafsur does not anticipate any of the present claims. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) are respectfully requested.

Rejoinder

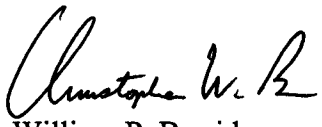
As each of withdrawn claims 5-14 and 19 either depend directly from or indirectly from elected claims 20 and 21, upon allowance of the elected claims, Applicants request that claims 5-14 and 19 be rejoined and similarly allowed.

Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 2, 3, 5-14 and 16-21 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Christopher W. Brown
Registration No. 38,025

WPB:CWB/rav

Date: June 3, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

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